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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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09/142,557

09/11/98

PILARSKI

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P-1459 (D)

HM12/0929

EXAMINER

HUGHES ETIGSON
175 COMMERCE VALLEY DRIVE WEST
SUITE 200
THORNHILL ON L3T 7P6
CANADA

FONDA, K

ART UNIT

PAPER NUMBER

1623

3

AIR MAIL DATE MAILED:

09/29/99

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire ONE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 94 and 101-170 is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claims 94 and 101-170 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

- SEE OFFICE ACTION ON THE FOLLOWING PAGES -

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Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, Applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 94 and 142-144, drawn to methods of enhancing chemotherapeutic kill of hematopoietic or dendritic cells.

Group II, claims 101 and 106-110, drawn to a method of treating a disorder that can also be treated with GM-CSF or G-CSF.

Group III, claims 102 and 106-110, drawn to methods of treating a disorder that can also be treated with recombinant erythropoietin.

Group IV, claims 103, 106-111, 114-124, 130, 131, 133-136, 138, 139, 141, 143, and 144, drawn to a method of enhancing production or release of hematopoietic or dendritic cells.

Group V, claims 104, 106-110, 112, 114, and 115, drawn to methods of enhancing stimulation or release of stromal cells.

Group VI, claims 105-110 and 113-115, drawn to a method of releasing cancer cells.

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— Group VII, claims 125, 126, and 133-136, drawn to methods of mobilizing or generating stem cells.

Group VIII, claims 127, 128, and 133-136, drawn to a method of treating immunosuppression.

Group IX, claims 129 and 133-136, drawn to methods of treating cancer.

— Group X, claims 132-136, drawn to a method of increasing red cells.

Group XI, claims 137, 143, and 144, drawn to methods of mobilizing any cell.

Group XII, claims 140, 143, and 144, drawn to a method of treating cancer patients.

Group XIII, claims 145-161, drawn to pharmaceutical compositions comprising hyaluronic acid.

Group XIV, claims 162-170, drawn to a method of making a pharmaceutical composition by mixing a cell adhesion molecule with pharmaceutically acceptable salts thereof.

The inventions listed as Groups I-XIV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons. Each invention of Groups I-XII is drawn to a distinct method in that the goals of each method differ from each other. Thus the intended patient or

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cell population also differs for each invention. As for inventions XIII and XIV, there is no common special technical feature because compositions of hyaluronic acid as in claim 146 are known. A special technical feature must represent an advance over the prior art.


Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Papers relating to this application may be submitted to Technology Center 1600 by facsimile transmission. The number of the fax machine for official papers in Technology Center 1600 is (703) 308-4556. Any document submitted by facsimile transmission will be considered an official communication unless the cover sheet clearly indicates that it is an informal communication.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kathleen Kahler Fonda, at telephone number (703) 308-1620. Examiner Fonda can generally be reached from Tuesday through Friday, as well as on alternate Mondays, between 7:30 a.m. and 5:00 p.m. If the Examiner cannot be reached, questions may be addressed to Supervisory Patent Examiner Gary Jones at (703) 308-1152, or to Special Programs Examiner Cecilia Tsang at (703) 308-0254. Any

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inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-1235.


Kathleen Kahler Fonda, Ph.D.
Primary Examiner
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